

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Sudeen G. Kelly.

Pacific Gas and Electric Company

Docket Nos. ER00-565-014  
ER04-1233-002  
ER05-480-001

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued April 8, 2005)

1. On February 22, 2005, Pacific Gas and Electric Company (PG&E) filed an Offer of Partial Settlement (the Partial Settlement) in the above referenced dockets. The Partial Settlement resolves all issues between PG&E and the Turlock Irrigation District (Turlock) pending in these proceedings, which concern PG&E's Scheduling Coordinator Services Tariff (SCS Tariff).
2. On March 2, 2005, comments were filed by the City and County of San Francisco (CCSF), Sacramento Municipal Utility District (SMUD), Northern California Power Agency (NCPA), and Commission Trial Staff (Trial Staff). On March 4, 2005, PG&E and Turlock filed reply comments. On March 14, 2005, PG&E, Turlock, CCSF, SMUD, NCPA, Trial Staff, Modesto Irrigation District, and the City of Santa Clara, Silicon Valley Power (collectively, the Active Participants), filed a Joint Report of Active Participants on Offer of Partial Settlement (Joint Report). In the Joint Report, the Active Participants agreed that the Partial Settlement could be certified as an uncontested partial settlement with the addition of five conditions. On March 17, 2005, the presiding Administrative Law Judge certified the uncontested Partial Settlement to the Commission with these conditions.<sup>1</sup>
3. The subject settlement is in the public interest and is hereby accepted, including the proposed conditions. The Commission's acceptance of the Partial Settlement does not constitute acceptance of, or precedent regarding, any principle or issue in this proceeding.

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<sup>1</sup> *Pacific Gas and Electric Co.*, 109 FERC ¶ 63,051 (2005).

4. PG&E states that Turlock is a Scheduling Coordinator (SC) Customer under PG&E's (SCS Tariff). As an SC Customer, PG&E asserts that Turlock is responsible for certain costs imposed by the California Independent System Operator Corporation on PG&E (SC Charges), as the SC for Turlock and other SC Customers. Turlock has disputed the appropriateness of the SCS Tariff and the costs PG&E seeks to pass-through to Turlock under the tariff.

5. On the earlier of the date Turlock begins operating its own Control Area or December 1, 2005, Turlock will assume all SC responsibilities on its own behalf and will no longer take service under SCS Tariff. The Partial Settlement provides for cost responsibility for the SC Charges between April 1, 1998 and the date on which Turlock assumes SC its own responsibilities. The Partial Settlement also provides for a number of non-monetary terms.

6. As stated above, the Active Participants agreed that the Partial Settlement could be certified as an uncontested partial settlement with the addition of five conditions.<sup>2</sup> These conditions are listed in the Appendix to this order.

7. PG&E will make refunds to Turlock and a compliance filing as stated in the Partial Settlement and the Joint Report.

8. This letter terminates Docket Nos. ER00-565-014, ER04-1233-002, and ER05-480-001.

By the Commission. Commissioner Kelly dissenting in part with a separate statement attached.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>2</sup> Certification at P 72.

## Appendix

### (1) Cost Recovery

PG&E agrees that it will not at any time, in this or any other proceeding, seek to recover from the SC Customers<sup>1</sup> any current or future SC Costs that would otherwise have been allocable to Turlock under the SCS Tariff absent the Settlement; provided, however, that PG&E may seek to recover the unpaid Turlock SC Costs through its Transmission Owner Tariff, if permitted by the D.C. Circuit order on PG&E's pending appeal in *Pacific Gas and Electric Company v. FERC*, United States Court of Appeals, District of Columbia Circuit, Case No. 02-1374, and assuming no double-recovery of the Turlock SC Costs.

### (2) Compliance Filing

PG&E will make a compliance filing, at an appropriate time, to demonstrate that none of the current or future Turlock-related SC Costs have been assigned to any of the other SC Customers. All parties shall have the right to enforce PG&E's agreement to make such compliance filing and all parties retain the right to challenge the compliance filing. This agreement with respect to PG&E's commitment to make a compliance filing regarding the Turlock-related SC Costs does not concede or waive any of the Active Parties' positions with respect to PG&E's treatment of issues and costs arising from the California Independent System Operator Corporation's Tariff Amendment 51 proceeding, or any other future filings by PG&E.

### (3) Discovery

The Active Parties agree that all parties may rely on PG&E's responses to Turlock's requests for discovery.

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<sup>1</sup> For purposes of this Joint Report, the following parties are the "SC Customers": Turlock Irrigation District (TID); the Sacramento Municipal Utility District (SMUD); City and County of San Francisco (CCSF); Northern California Power Agency (NCPA); Modesto Irrigation District (MID); and the City of Santa Clara, Silicon Valley Power (SVP).

(4) Withdrawal of Turlock Testimony

The Active Parties agree that upon Commission approval of the Settlement, they will not oppose Turlock withdrawing its testimony.

(5) Withdrawal of Turlock from Proceedings

The Active Parties agree that within three (3) business days of the Effective Date of the Settlement, Turlock will file to withdraw as an intervenor in the SCS Tariff proceedings.

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KELLY, Commissioner, *dissenting in part*:

For the reasons I have previously set forth in *Wisconsin Power & Light Co.*, 106 FERC ¶ 61,112 (2004), I do not believe that the Commission should depart from its precedent of not approving settlement provisions that preclude the Commission, acting *sua sponte* on behalf of a non-party, or pursuant to a complaint by a non-party, from investigating rates, terms and conditions under the “just and reasonable” standard of section 206 of the Federal Power Act at such times and under such circumstances as the Commission deems appropriate.

Therefore, I disagree with this order to the extent it approves a settlement that provides that the “Settlement cannot be changed unless a showing is made that the public interest requires it.”

	<hr/> Suede G. Kelly
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